IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 237 of 2002

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

ORIENTAL INSURANCE CO LTD.

Versus

MURLIDHARBHAI SHANKERRAO SAIDHANE

Appearance:

MR KK NAIR for Appellant

MR HARESH J. TRIVEDI for respondent Nos.1 to 4

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.H.KADRI

Date of decision: 13/02/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. Heard the learned counsel for the appellant and learned counsel Mr. Haresh J. Trivedi for respondent nos.1 to 4-original claimants.

2. Appeal admitted. Mr. Haresh J. Trivedi appears for respondent nos.1 to 4 - original claimants and waives service of notice in the appeal. On a joint request of learned counsel the appeal is taken up for hearing today.

3. This is an appeal under section 173 of the Motor Vehicles Act, 1988, at the instance of the Insurance Company, challenging the judgement and award passed by the Motor Accident Claims Tribunal (Aux.), Vadodara, in Motor Accident Claim Petition No.52 of 1995, passed under section 168 of the said Act.

4. We have permitted learned counsel for the appellant to address us on the aspect of quantum and merits of the award inasmuch as the appellant has obtained an appropriate order from the Tribunal under section 170 of the said Act.

5. So far as the merits of the appeal are concerned, we have carefully examined the impugned judgement and award, heard the learned counsel for the respective parties and considered their submissions in this context. We have also taken into consideration the evidentiary material on record to which our attention has been drawn.

6. As a result of the hearing and discussion and as a result of the aforesaid exercise, we are of the opinion that the amount awarded by the Tribunal, granting to the claimants an aggregate sum of Rs.4,23,200/- by way of compensation is certainly excessive. We are, therefore, required to consider the question as to what would be the appropriate amount of compensation.

7. In this context learned counsel for the respondent nos.1 to 4 original claimants very fairly submitted that in view of the evidentiary material on record, compensation only to the extent of Rs.3 lacs (Rupees three lacs only) in the aggregate would be justified and sustainable. We are also of the same view. Learned counsel for the appellant is unable to justify any further reduction below this figure.

8. We, therefore, hold and direct that the impugned judgement and award is modified to the aforesaid extent, that the respondent nos.1 to 4 - original claimants shall be entitled to compensation in the aggregate sum of Rs.3 lacs. It is clarified that the impugned award is

modified only to the aforesaid extent and the rest of the award stands confirmed.

9. This appeal is, therefore, partly allowed with no order as to costs. Decree accordingly.

10. Learned counsel for the appellant states that the necessary amount due and payable to the original claimants under the present judgement and decree shall be deposited with the Tribunal within six weeks from today.

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